

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Smt.Boyapati Venkata Laxmi & (3) others, Narsampet Mandal, Warangal District against the orders of the Additional Agent to Government, Eturunagaram, Warangal District in Case No.A/2016/05, dated:18.06.2005 - Dismissed - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 12

Dated: 18-01-2019
Read the following:-

- 1) Orders of the PO, ITDA, Eturunagaram and the Additional Agent to Government, Eturunagaram, Warangal District in Case No.A/2016/05, dated:28.02.2006.
- 2) Revision Petition filed by Revision Petition filed Smt.Boyapati Venkata Laxmi & (3) others, Narsampet Mandal, Warangal District Dt:17.04.2006.
- 3) Govt.Memo.No .4190/LTR.2/2006, dt 22.06.2006.
- 4) From the PO, ITDA, Eturunagaram and the Additional Agent to Government, Eturunagaram, Warangal District Lr.No. 1701/M(SW) 2006, dt. 25.04.2006.
- 5) Govt.Memo & Letter.No.4190/LTR-2/2006, Dt:12.09.2008,22.06.2009, 06.05.2010, 16.01.2015,16.06.2017 & 16.12.2017.
- 6) Written Arguments filed by the Petitioner dt:15.02.2018.

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ORDER

In the reference 2nd read above, Smt.Boyapati Venkata Laxmi & (3) others, Narsampet Mandal, Warangal District filed Revision Petition through their Counsel before the Government aggrieved by the orders of the Additional Agent to Government, Eturunagaram, Warangal District in Case No.A/2016/05, dated:18.06.2005 in Sy.No.117/1/536 to an extent of 1-36 Acres situated at Rajupet Village, Narsampet Mandal, Warangal District.

2. In the reference 3rd read above, Government have Stayed the orders of Project Officer cited 1st above and the Collector, Warangal and the Project Officer & Additional Agent to Government, Warangal District were requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Additional Agent to Government, Eturunagaram, Warangal District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the Revision Petitioners are as follows:

- The orders passed by the both the Courts below are bad in law and contrary to the material on record.
- The order passed by the Lower Appellate Court is liable to be set aside on the ground of violation of principles of natural justice as no reasons were assigned in dismissing the Appeal.
- The Lower Appellate Court failed to appreciate the grounds raised in the Appeal. The Lower Appellate Court did not decide the case on its merits and no reasons of whatsoever nature were assigned in dismissing the Appeal.
- The Court below ought to have seen that the petitioner has raised specific grounds in the Grounds of appeal stating interalia that the provisions of Regulation 1 of 1959 has no application since the land where the rice mill was constructed is not located in the schedule area.
- Further the Courts below ought to have seen that there is no transfer of land to attract the provisions of Sec.3 of Regulation 1 of 1959. As such the proceedings initiated by the original authority viz., the Special Deputy Collector (TW), Eturunagaram, Warangal District is liable to be set aside. Even if it is assumed that there was a transfer that was effected prior to 1970. As such the provisions of Sec.3 of Regulation 1 of 1959 has no application.

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- The Lower Appellate Court did not even mention the parties to the Appeal in the same manner as mentioned in the Grounds of Appeal. This itself indicates that the non-application of mind of the Lower Appellate Court in passing the impugned order.
- Both the courts erred in appreciating the material on record and also failed to appreciate the contentions/grounds raised by the petitioner and erroneously passed the ejectment order.

4 The remarks of the Project Officer, ITDA, Eturunagaram and the Additional Agent to Government, Warangal District on the Revision Petition are as follows:

- In accordance with the Government orders the industries setup in scheduled area the benefit will be extended only to the scheduled tribes. In accordance with the provision of LTR 1959, as amended in 1970 section 3(1), the both the courts below have passed orders which is not bad in law and contrary to the material on record.
- The petitioner approached to the appellant authority i.e., respondent No.2 (AAG, Eturungaram,) The appellate i.e. respondent No.2, disposed the appeal after giving a reasonable opportunity, in accordance with the provision of LTR 1959 as amended in 1970 section 3(1), dismissed and the authority of the passing order and stay appeal does not arise.
- The Lower Appellate Court decided the case on it's demerits as long as their petitioner is contrary to the regulations, they do not have any valid right or title to continue in the possession of land.
- The subject matter of the case situated in scheduled areas as such except the tribals, the non-tribals have no right to be in a possession of the land as per section 3(1) (A) (APSALT) Regulation Act 1 (1959) as amended by act 1/1970.
- The Section 2(g) of Andhra Pradesh Scheduled Area Land Transfer Regulation 1959 as amended in 1970 transfer means Mortgage with or without possession, lease, sale, gift exchange or any other dealing with the immovable property. Not being a testamentary disposition and includes a change on such property or a contract relating to such property in respect of such mortgage, lease, sale gift exchange or other dealing.
- The Honourable Supreme Court in its Civil Appeal number 4601 and 4602 of 1997 with civil appeal number 4603 of 1997 decided on 11-7-1997 in "**Samatha V/s State of A.P and others**" clarified the word person denoted in Section 3(1) of regulations includes the state government. The State Government also stands to prohibited to transfer by way of lease or any form known to law.
- Therefore the petitioner violated the Land Transfer Regulation of assignment rules in force.
- The Special Deputy Collector (TW), Eturungaram, after due enquiry decided the petitioners have violated the provision of section 3(1) (b) and (4) of Regulation 1 of 1959 as amended in 1970, the Lower Appellate authority also upheld the order of the Special Deputy Collector (TW), Eturunagaram.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, observed that:

- The Revision Petitioners filed Revision Petition against the orders of Additional Agent to Government in Case No.LTR/Appeal/2/2005 dt: 28.02.2006. They have not submitted any documents in support of their claim along with the appeal. Even at the time of final hearing the Revision Petitioner 4 only attended along with his Counsel. But the Revision Petitioners at Sl.No. 1 to 3

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who claimed to be owners of the land did not turnup for hearing. Even they have not received the notices sent to their given address.

- The Revision Petitioner No.4 and his Counsel who attended final hearing on 30-12-2017 promised to file detailed representation along with all supporting documents to sustain their claim by 20.01.2018. But they did not submit any written arguments nor any documents in support of the claim.
- As verified from the records it is found that Late Sri Boyapati Laxmaiah s/o Subbaiah, R/o Rajupet(V) who is a non tribe is pattedar of Land in Sy.No.117/1/536 in Rajupet(V) to an extent of Ac.1-36 gts, the village is in Scheduled Area. The respondents 1 to 3 are his daughters. They have given General Power of Attorney to Sri Chakilan Krishna Murthy on 01.06.2004 to construct a Rice Mill in the name of M/s Roopa industries Rice Mill.
- Sri Chakilan Krishna Murthy is the Managing Partner of the Industry. He has constructed the Rice Mill by obtaining permission from different authorities in the capacity of Managing Partner. Sri Chakilan Krishna Murthy has executed a partnership deed according to which 94% of the share in the Rice Mill(Industry) is in the name of all his family members. The Revision Petitioners 1 to 3 who are legal heirs of the land are having only 6% share in the Industry as sleeping partners. The Rice Mill is run by Sri Chakilan Krishna Murthy as Managing Partner. The General Power of Attorney executed is for Ac 1-00 only.
- The General Power of Attorney holder is empowered to do all acts on behalf of the Revision Petitioners for their benefit only. He should not have any interest or partnership in the firm. In this case he executed partnership deed with 4 others on 28-07-2004. All are from his own family members. He is empowered only to manage the Industry as an agent but not owner.
- Further the land in question is an assigned Land to Late Sri Boyapati Laxmaiah S/o Subbaiah. Hence construction of Rice Mill itself is illegal.

6. Government therefore after careful examination of the matter hereby rejects the Revision Petition filed by Smt. Boyapati Venkata Laxmi & (3) others, Narsampet Mandal, Warangal District through their Counsel before the Government against the orders of the Additional Agent to Government, Eturunagaram, Warangal District in Case.No.A/2016/05, dated:18.06.2005 in Sy.No.117/1/536 to an extent of 1-36 Acres situated at Rajupet Village, Narsampet Mandal, Warangal District and the orders of the Additional Agent to Government, Eturunagaram, Warangal District are upheld.

7. The Additional Agent to Government and Project Officer, ITDA, Warangal District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

- 1) Smt.Boyapati Venkata Laxmi,W/o Laxmaiah
R/o Rajupet Village, Narsampet Mandal,
Warangal District.
- 2)Sri Gopal Padma, W/o Mohan Rao,
R/o Rajupet Village, Narsampet Mandal,
Warangal District.
- 3)Smt.Narsireddy Vijaya Rani, W/o Sharabaiah,
R/o Sarwapur Village, Narsampet Mandal,
Warangal District.

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4)M/s Roopa Industries (Rice mill)
Managing Partner Chakilam Krishna Murthy,
R/o Narsampet Village & Mandal,
Warangal District.

The Project Officer, ITDA and Additional Agent to Government,
Eturunagaram, Warangal District (w.e.)

Copy to :

The District Collector, Warangal

The Special Deputy Collector(TW Eturunagaram, Warangal District.
for information and necessary action.

The Tahsildar,

Narsampet, Warangal District.

Sri A.Prabhakar Rao, & M.Durga Prasad, Advocates,

Plot No.252 A, Opp:SBI, MLA Colony,

Road No.12, Banjara Hills, Hyderabad-34. Ph.No.9391048677.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER